93-170

No. 93-

Supreme Court, U.S.
FILED
AUG 2 1993
OFFICE OF THE CLERK

IN THE SUPREME COURT OF
THE UNITED STATES OF AMERICA

October Term, 1993

Gordon W. Epperly et.al., Petitioners
v.,
United States et.al., Respondents

Petition for Writ of Certiorari to the
Court of Appeals, Ninth Circuit

The United States supreme court has
Jurisdiction under 28 USC 1651,
28 USC 2101(c), and 28 USC 2106

In re Gordon W. Epperly et.al.

Petition for Writ of Certiorari

GORDON W. EPPERLY, et.al.,
in propria persona
c/o P.O. Box 34358
Juneau, Alaska 99803

Telephone: (907) 789-5659

July 30, 1993

138 pp

EDITOR'S NOTE

THE FOLLOWING PAGES WERE POOR HARD COPY AT THE TIME OF FILMING. IF AND WHEN A BETTER COPY CAN BE OBTAINED, A NEW FICHE WILL BE ISSUED.

QUESTIONS PRESENTED

1. Was there a lawful Congress in session at the time the 14th Amendment to the United States Constitution was proposed and submitted to the freely associated compact states of the united States of America for ratification?

2. Did the United States Senate lawfully expel Sen. John P. Stockton of New Jersey from its Chambers for casting a "negative vote" on Joint Resolution No. 48 (proposing the 14th Amendment to the United States Constitution) and thus denying New Jersey state of its suffrage in the Senate [see U.S. Const., I:5:2 and V:1:1]?

3. With the "negative vote" of Sen. John P. Stockton on Joint Resolution No. 48; did the United States Senate have the 2/3 majority vote as required by

U.S. Const., V:1:1 to submit the proposed 14th Amendment to the freely compact states of the united States of America for ratification?

4. Does the United States Congress have constitutional authority to compel a freely compact state of the united States of America to rescind its "negative" ratification vote on a proposed Amendment to the United States Constitution?

5. Is the ratification of U.S. Constitution, 14th Amendment a non-justiciable "political question?"

6. Has the 14th Amendment to the U.S. Constitution been ratified pursuant to the requirements of Article V and Article VI of the United States Constitution?

7. Has the 14th Amendment to the U.S. Constitution been ratified in accordance to Sec. 2 of the Act of the

FIFTEENTH CONGRESS, Sess. I, Ch. 80 (15 Stat. 706)?

8. Is the 14th Amendment to the U.S. Constitution repugnant to the Constitution of the United States?

9. Are the "Reconstruction Acts" of 1867 laws that were made in pursuant to the United States Constitution?

10. Does a freely associated compact state of the united States of America have authority to rescind its ratification vote prior to an issuance of a Proclamation of Ratification?

11. Is the Congressional "Concurrent Resolution" of July 21, 1868 a law made in pursuant to the United States Constitution?

LIST OF PARTIES

The parties for the Petitioners are Gordon W. Epperly, Esther K. Epperly, Niels P. Epperly and Bobbi J. Epperly and the parties for the Respondents are the corporate United States, IRS Employee No. 2981806539 and a number of unknown United States employees.

/////

/////

//////

TABLE OF CONTENTS

	Page
Questions presented	i
List of Parties	iv
Appendix	vi
Table of Authorities	viii
Opinion Below	2
Jurisdiction	3
Constitutional and Statutory provisions	4
Jurisdiction of Lower Court	5
Statement of the case	6
Wetlands	6
Non-Resident Alien	8
Petition for ReHearing or ReHearing In Banc	10
Reasons for issuing Writ of Certiorari	12
Unsettled Questions for the Court ..	14
Conclusion	24

APPENDIX

Page

Court Orders and Memorandums A-1

U.S. Court of Appeals Order A-1

U.S. Court of Appeals Memorandum and Order A-3

U.S. District Court Memorandum and Order A-12

Constitutional and Statutory Provisions Involved A-22

United States Constitution A-22

Acts and Resolutions of Congress .. A-32

FIFTEENTH CONGRESS Sess. I, Ch. 80 ..... A-32

THIRTY-NINTH CONGRESS, Sess. II, Ch. 152 ..... A-40

FORTIETH CONGRESS, Sess. I, Ch. XXX A-46

U.S. Congressional Concurrent Resolution of July 21, 1868 .. A-54

HJR 192 of June 5, 1933 [31 USC 463] A-56

National Emergencies Act [P.L. 94-412, 90 Stat. 1255] . A-60

Proclamations Involved A-73

Proclamation of Ratification [July 20, 1868] A-73

APPENDIX (Cont.)

Page

Proclamation of Ratification
[July 28, 1868] A-84

//////

//////

//////

TABLE OF AUTHORITIES

Acts and Statutes of Congress — Page

Act of the FIFTEENTH CONGRESS, Sess. I, Ch. 80 ..... iii, 4, 23, 25

Alaska Statehood and Omnibus Acts 9

Clean Air and Water Acts 6

National Emergencies Act of September 14th, 1976 .. 4, 13, 16, 18

Reconstruction Acts of 1867 ..... iv, 4, 19

Tucker Act 5

Public Laws and U.S. Statutes

15 Stat. 706 ..... iii, 4, 24

24 Stat. 505 5

90 Stat. 1255 ..... 4, 13

P.L. 94-412 ..... 4, 13

United States Code

28 USC 297 9

28 USC 1291 5

United States Code (Cont.) Page

28 USC 1651 ..... 3, 23, 29

28 USC 2101(c) 3, 23, 29

28 USC 2106 ..... 3, 23, 29

31 USC 463 17

42 USC 1994 13

United States Constitution Page

U.S. Const., I:5:2 ii

U.S. Const., I:8:1 17

U.S. Const., I:8:3 22

U.S. Const., I:10:1 17

U.S. Const., I:9:8 17

U.S. Const., III:2:1 3

U.S. Const., IV:3:2 17

U.S. Const., IV:4:1 15

U.S. Const., V:1:1 ..... ii, iii, 22

U.S. Const., VI:1:2 .....iii, 24, 26

U.S. Const., 1st Amendment 4, 14

U.S. Const., 10th Amendment 4

U.S. Const., 13th Amendment ... 4, 12, 16, 17

United States Constitution (Cont.) Page

U.S. Const., 14th Amendment . ii, iii, iv, 4, 8, 10-12, 14-16, 18-20, 21, 24, 26-28

U.S. Const., 15th Amendment 19

U.S. Const., 16th Amendment 27

Miscellaneous Authorities Page

Articles of Confederation 15

Bill of Rights (U.S. Constitution.) 16

Congressional Record (House - June 13, 1967) 18

Declaration of Independence 18

Cong. Concurrent Resolution of July 21, 1868 ..... iv, 4, 21

Federal Rules of Criminal/Civil Procedure 14

House Joint Resolution 192 of June 5, 1933 17

House Concurrent Resolution No. 208 [Louisiana] 18

Proclamation of Ratification of July 20th, 1867 and July 28th, 1867 ..... 4, 24

U.S. Supreme Court Rule 13.4 3

Uniform Commercial Code 14

Court Cases

Page

Brushaber v. Union R.R. Co.,
60 L.Ed. 493, 499 25

Coleman v. Miller, 307 U.S.
448, 59 S.Ct. 972 26

Dred Scott v. Sanford,
60 US 405 19

Dyett v. Turner, 439 P.2d 266 18

Hawke v. Smith, 253 US 221,
40 S. Ct. 227 26

Knoblauch v. C.I.R.,
749 F.2d 200 27

Lysiak v. C.I.R., 816 F.2d 311 ... 28

Marbary v. Madison, 5 US 137,
2 L.Ed. 60 25

Sisk v. C.I.R., 791 F.2d 58 27

State v. Phillips, 540 P.2d 936 .. 18

State of Idaho v. Freeman,
529 F.Supp. 1107 .... 12, 26, 28

U.S. v. Foster, 789 F.2d 457 27

U.S. v. House, 617 F.Supp. 237 ... 28

/////

/////

IN THE SUPREME COURT OF

THE UNITED STATES OF AMERICA

October Term, 1993

Gordon W. Epperly, et.al., Petitioners

v.

United States, et.al., Respondents

Petition for Writ of Certiorari to the U.S. Court of Appeals, 9th Circuit

---

The undersigned Gordon W. Epperly for the Petitioners hereby Petitions the supreme court for the United States of America for a Writ of Certiorari to the United States Court of Appeals, Ninth Circuit, to review on error the Memorandums and Orders of that Court that were entered in the above entitled proceeding on November 27, 1992 and June 15, 1993.

OPINION BELOW

There was no Opinion issued below. A copy of the Memorandum and Order of the United States Court of Appeals for the 9th Circuit that is herein sought to be reviewed is Appended hereto. [Appendix A-3]

/////

/////

/////

JURISDICTION

The Memorandums and Orders of the United States Court of Appeals, 9th Circuit, were entered on November 27, 1992 and June 15, 1993 [Appendix A-1, A-3]. This supreme court of the United States of America has jurisdiction under 28 USC 1651, 28 USC 2101(c), and 28 USC 2106 to review a final Order of the United States Court of Appeals by Writ of Certiorari after a Petition for ReHearing has been denied (S.Ct. Rule 13.4). The United States supreme courts' judicial powers extending to cases arising under the Constitution of the United States and the laws of the United States is granted by U.S. Const., III:2:1.

/////

/////

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves U.S. Const., Articles I, IV, V, VI and Amendments I, V, IX, X, XIII, XIV; the "Reconstruction Acts" of 1867; the "Congressional Concurrent Resolution" of July 21, 1867; the July 20th, 1867 and the July 28th, 1867 "Proclamations of Ratification" of the 14th Amendment. This case also involves the Act of the Fifteenth Congress, Sess. I, Ch. 80 (15 Stat. 706) and the "National Emergencies Act" of September 14, 1976 (P.L. 94-412, 90 Stat. 1255). These Constitutional and Statutory provisions are set out in the Appendix.

/////

/////

/////

JURISDICTION OF LOWER COURT

The Petitioners, as Proper Persons of the Republic, brought a Civil action into the U.S. District Court for the District of Alaska [NOTE: original Complaint filed in the District Court for the District of Columbia] under the concurrent jurisdictional clauses of the "Tucker Act" (24 Stat. 505). The Petitioners appealed from the final Order of the United States District Court [Appendix A-12] to the United States Court of Appeals under the authority of 28 USC 1291.

/////

/////

/////

STATEMENT OF THE CASE

The case arose out of the following facts:

WETLANDS - The Petitioners (Plaintiffs) brought this case into the U.S. District Court because the U.S. Corp. of Engineers had classified the Petitioners' property as "Wetlands" under the "U.S. Clean Air and Water Acts" (codified as a non-positive law of the United States). It is the belief of the Petitioners that the U.S. Corp. of Engineers had exceeded its jurisdictional authority as Petitioners' property is not located within a State of the United States nor does the United States have any waters (navigable or otherwise) bordering Petitioners' property as a prerequisite under the law for classifying Petitioners' property as "Wetlands." The United States District Court and the United States

Court of Appeals have ruled that no regulatory action had been taken by the U.S. Corp. of Engineers and thus the Complaint of the Petitioners was premature [Appendix A-3, A-12].

/////

/////

/////

NONRESIDENT ALIEN - The Petitioners brought this case into Court to object to being classified as citizens of the United States (U.S. citizens) who are subject to the non-positive laws of the United States under the jurisdictional clauses of the U.S. Const., 14th Amendment. The United States District Court and the United States Court of Appeals have ruled that the Petitioners were citizens of the United States as they were born within California Republic or Alaska Republic (freely associated compact states of the united States of America) [Appendix A-3, A-12].

As Alaska ceased to be a State of the United States upon statehood per the "Alaska Statehood and Omnibus Acts" and became a freely associated compact state of the united States of America (e.g. 28 USC 297); the Petitioners asserts that the lower Courts have erred

in their rulings as the Petitioners are not citizens of the United States (U.S. citizens) nor are they forum state residents of the geographical defined corporate United States that would make them liable for income taxes under the United States' Internal Revenue Code (codified as a non-positive law of the United States). They are citizens of a freely compact state of the united States of America. Furthermore; the Petitioners have never received any income from any trade or business within the corporate United States nor have they received any political benefit (knowingly) that would make them liable for income taxes under the Internal Revenue Code of the United States.

/////

/////

/////

PETITION FOR REHEARING OR REHEARING IN BANC - The United States Court of Appeals, Ninth Circuit, submitted a "Memorandum and Order" dated November 9, 1992 which was filed by the Clerk of Court on November 24, 1992 [Appendix A-3]. On December 5, 1992; the Petitioners (Appellants) filed a Petition for ReHearing or ReHearing In Banc wherein the Petitioners argued that the U.S. Court of Appeals erred in its conclusion of law.

The Petitioners argued that the U.S. Court of Appeals erred in declaring that the Petitioners were citizens of the United States (U.S. citizens) and that the Courts' ruling had attached several nexus between the Petitioners and the U.S. Const., 14th Amendment. The Petitioners also argued that the 14th Amendment was repugnant to the United States Constitution and that the Court erred in its conclusion of law when

it declared that it was barred to review the ratification process of the U.S. Const., 14th Amendment under the doctrine of "Political Question." The validity of the U.S. Const., 14th Amendment was first raised within the Petitioners' (Plaintiffs') Complaint that was supported with numerous exhibits, treatises and memorandums in the U.S. District Court for the District of Alaska.

On June 15, 1993; the United States Court of Appeals issued its Order denying the Petitioners' (Appellants') Petition for a ReHearing or a ReHearing In Banc [Appendix, A-1].

/////

/////

/////

REASONS FOR ISSUING WRIT OF CERTIORARI

The United States Court of Appeals has refused to rule on an important question of law that has not been, but should be, settled by this court.

The United States Court of Appeals failure to render a decision on the ratification of the U.S. Const., 14th Amendment as a "political question" is a position that is in conflict with an Opinion of a U.S. District Court (State of Idaho v. Freeman, 529 F.Supp. 1107), an Opinion of a Supreme Court of a freely associated compact state of the united States of America (Utah), and a Legislative Joint Resolution of a freely associated compact state of the united States of America (Louisiana).

The United States Court of Appeals ruling damages the Petitioners by placing the Petitioners in a state of Peonage in violation of the 13th Amendment to the

U.S. Constitution (42 USC 1994) by making them liable to a debt obligation of the United States via IRS Revenue Codes that cannot be questioned under the U.S. Const., 14th Amendment and by violating the Congressional intent to restore the inalienable rights of the people under the "National Emergencies Act" of September 14, 1976 (P.L. 94-412, 90 Stat. 1255) [Appendix A-60].

/////

/////

/////

UNSETTLED QUESTIONS FOR THIS COURT

Under the purported authority of the U.S. Const, 14th Amendment; the Congress of the United States has intimidated every freely associated compact state of the united States of America into adopting the Uniform Commercial Code and the Federal Rules of Civil/Criminal Procedure as the rule of law for their Courts. As these Courts of the freely associated compact states of the Union are now operating under the Law Merchant of the Roman Civil Law of the Roman Church; the Congress of the United States has created a "state church" that is repugnant to the U.S. Const., 1st Amendment. Furthermore; as the U.S. Const., 14th Amendment has brought the democracy of the District of Columbia over the lands of the freely associated compact states of the united States of America; the Congress of the corporate

United States has displaced the Republican form of governments of those states in violation of U.S. Const., IV:4:1 and has taken territory of those freely associated compact states of the united States of America for the use of the United States in violation of Article VIII of the Articles of Confederation.

And as the lower Courts of the United States have refused to recognized the status of the Petitioners as citizens of freely associated compact states of the united States of America by ruling that they were citizens of the United States (U.S. citizens) subject to the non-positive laws of the United States (District of Columbia) under the jurisdictional clauses of the U.S. Const., 14th Amendment; the Petitioners have been damaged in that the lower Courts of the United States have placed the Petitioners into a

"Constructive Trust" without their full knowledge of the obligations therein and without their consent. The lower Court rulings also violates the intent of Congress to terminate certain authorities with respect to national emergencies in effect and the intent of Congress to provide for an orderly implementation and termination of future national emergencies under the "National Emergencies Act" of September 14, 1976 [Appendix A-60]. The ruling of the lower Courts have striped the Petitioners of all their "Inalienable Rights" as guaranteed by the "Bill of Rights" to the United States Constitution and thus the Petitioners are in a state of Peonage in violation of U.S. Const., 13th Amendment.

And under the purported authority of the U.S. Const., 14th Amendment; the Congress of the United States has created "Titles of Nobility" known as "citizens" of the United States (U.S. citizens) and

with this newly founded "Titles of Nobility;" the Congress is using the citizens of the United States as a "human resource" under the purported authority of U.S. Const., IV:3:2 to raise a revenue for the purpose of "discharging" the debt obligations of the United States under the Public Policy of HJR 192 of June 5, 1933 (31 USC 463). Said Titles of Nobility and the discharging of debts of the United States (and the debts of the freely associated compact states of the united States of America) violates of the "payment clauses" of U.S. Const., I:8:1 (and I:10:1) and the prohibition of Titles of Nobility clause of U.S. Const, I:9:8. The Petitioners have been damaged by the lower Court rulings as their Inalienable Rights are now suspended and they are now in a state of Peonage in violation of the U.S. Const., 13th Amendment, the principles of the

Declaration of Independence, and the Congressional intent of the "National Emergencies Act" of September 14, 1976.

And as there are now two freely associated compact states of the united States of America that have officially declared that they will no longer recognize the U.S. Const., 14th Amendment as being a valid Amendment to the U.S. Constitution ("Utah" via its Supreme Court in the cases of Dyett v. Turner, 439 P.2d 266 and State v. Phillips, 540 P.2d 936; and "Louisiana" via its House Concurrent Resolution No. 208 (1967) (as published in the Congressional Record, House - June 13, 1967 pgs. 15641-15646)), there is now a disunity in opinion on the validity of the U.S. Const., 14th Amendment among the freely associated compact states of the united States of America and the Courts of the United States.

And as the "Reconstruction Acts" of 1867 [Appendix A-40, A-46] are repugnant to the U.S. Constitution on the following grounds:

1. Said Acts granted the Negro population the rights of "suffrage" in violation of the United States Constitution as evidenced by the needed passage of the U.S. Const., 15th Amendment.

2. Said Acts granted the Negro population the rights of "citizenship" in violation of the U.S. Constitution as evidenced by the case of Dred Scott v. Sanford, (60 US 405) and the needed passage of the U.S. Const., 14th Amendment.

3. Said Acts dissolved the governments of freely associated compact states of the united States of America after those states were brought into the Union with a

Republican form of government on equal footing with the original 13 states.

4. Said Acts compelled several freely associated compact states of the united States of America to restructure their state Constitutions to meet the provisions of the U.S. Const., 14th Amendment *before* the 14th Amendment was proclaimed to be ratified as an Amendment to the U.S. Constitution.

5. Said Acts placed freely associated compact states of the united States of America under "martial law" with their governments being "provisional governments" that were subject to the exclusive jurisdiction of the United States after the Civil War was declared to be at an end and after those freely associated compact states were operating under lawful Civil Governments.

6. Said Acts declared that several of the freely associated compact states of the united States of America were "military districts" that were required to ratify the U.S. Const., 14th Amendment over the objections of the Civil authorities of those freely associated compact states and thus said Acts rescinded those states determination of rejecting the Amendment and nullifies the Congressional assessment of contemporaneousness of expression of consent of the "ratification votes" of those states.

And as the "Concurrent Resolution" of July 21, 1868 [Appendix A-54] *ordering* U.S. Secretary of State, Seward, to issue forth a Proclamation of Ratification that the U.S. Const., 14th Amendment has been properly ratified is repugnant to the

U.S. Constitution on the following grounds:

1. If the Concurrent Resolution was passed under Article I of the U.S. Constitution, said Resolution fails for not being signed by the President of the United States as required by U.S. Const., I:8:3.

2. If the Concurrent Resolution was passed under Article V of the U.S. Constitution, said Resolution fails for not being passed on a two-thirds vote of both Houses of Congress.

3. The U.S. Const., Article V does not expressly grant the Congress the authority to adjudge and proclaim a proposed Amendment as being properly ratified.

4. A Concurrent Resolution cannot amend or alter the procedure of issuance of a Proclamation of Ratification as set forth in an Act of

Congress (e.g. Sec. 2 of the Act of the FIFTEENTH CONGRESS, Sess. I, Ch. 80 [Appendix A-32]).

And for the above reasons, this United States supreme court has authority under 28 USC 1651, 28 USC 2101(c), and 28 USC 2106 to review the record of the lower Court on a Writ of Certiorari.

/////

/////

/////

CONCLUSION

Do to the errors in the rulings of the lower U.S. Courts in that those Courts will not recognize the status of the Petitioners as citizens of freely associated compact states of the united States of America; the lower Courts have attached several nexus between the Petitioners and the 14th Amendment to the United States Constitution and;

As U.S. President Andrew Johnson objected to and Vetoed every Act and Resolution of Congress that brought forth the U.S. Const., 14th Amendment and;

As the U.S. Secretary of State (Seward) expressed reservation within his July 20, 1868 Proclamation of Ratification (15 Stat. 706 [Appendix A-73]) that the 14th Amendment was not ratified in pursuant to the United States Constitution as required by U.S. Const., VI:1:2 and Sec. 2 of the Act of the

FIFTEENTH CONGRESS, Sess. I, Ch. 80 [Appendix A-25, A-46] and;

As Sec. 2 of the Act of the FIFTEENTH CONGRESS, Sess. I, Ch. 80 mandates that no Proclamation of Ratification shall issue forth unless a proposed Amendment has been ratified in pursuant to the Constitution of the United States; the ratification of an Amendment under said Act of Congress presents a justiciable question of law that is reviewable by a Court of Law (Marbary v. Madison, 5 US 137, 2 L.Ed. 60) and;

As this United States supreme court in the case of Brushaber v. Union R.R. Co., (60 L.Ed. 493, 499) has ruled that an Amendment to the United States Constitution that is not adopted in pursuant to the United States Constitution would:

"... cause one provision of the Constitution to destroy another [and]

> would create radical and destructive changes in our constitutional system and multiply confusion";

and thus the Judges of this United States supreme court has a ministerial duty to protect the United States Constitution under U.S. Const., VI:1:2 and;

As this United States supreme court further ruled in the case of Hawke v. Smith, (253 US 221, 40 S. Ct. 227 [1920]) that:

> "It is not the function of courts or legislative bodies, national or state, to alter the method which the Constitution has fixed."

and;

As this United States supreme courts' reference to the U.S. Const., 14th Amendment in Colemen v. Miller (307 U.S. 433, 83 L.Ed. 1385) is "dicta" that is not binding upon on any Court of Law per State of Idaho v. Freeman (529 F.Supp. 1107) and;

If the U.S. Const., 14th Amendment is allowed to stand after this United States supreme court has been fully advised of the facts behind the ratification of said Amendment would be for this supreme court to declare that the United States Congress has not only the authority to propose Amendments to the United States Constitution; but the United States Congress also has the authority to compel each and every freely associated compact state of the united States of America to ratify its future proposed Amendments to the United States Constitution and;

As several United States District Courts and Circuit Court of Appeals have recently taken jurisdiction to rule upon constitutional questions that involved the ratification of the 16th Amendment to the United States Constitution (e.g. Knoblauch v. C.I.R., 749 F.2d 200; Sisk v. C.I.R., 791 F.2d 58; U.S. v. Foster, 789 F.2d 457;

Lysiak v. C.I.R., 816 F.2d 311; U.S. v. House, 617 F.Supp. 237, etc.); these United States' Courts have alleged that they have authority to review the ratification process of an Amendment to the Constitution of the United States as being a justiciable question of law that is not a bar to the Courts as a "political question" (see Idaho v. Freeman, 529 F.Supp. 1107) and thus the United States Court of Appeals, Ninth Circuit, has erred in its ruling of Epperly, et.al. v. United States et.al. [Appendix A-3] and therefore;

It is within the purview and ministerial duty of this United States supreme court to review all the "Acts" of Congress that brought forth the ratification of the U.S. Const., 14th Amendment to determine if those "Acts" of Congress were made in pursuant to the Constitution of the United States. This United States supreme court has

authority under 28 USC 1651, 28 USC 2101(c), and 28 USC 2106 to entertain this Petition for Writ of Certiorari to the United States Court of Appeals, Ninth Circuit.

By Gordon W. Epperly
Gordon W. Epperly - Petitioner

No. 93-

==========

IN THE SUPREME COURT OF
THE UNITED STATES OF AMERICA

October Term, 1993

==========

Gordon W. Epperly et.al., Petitioners
v.,
United States et.al., Respondents

==========

Petition for Writ of Certiorari to the
United States Court of Appeals,
Ninth Circuit

==========

Appendix

==========

* * * * * *

I

COURT ORDERS AND MEMORANDUMS

* * * * * *

F I L E D
JUN 15 1993
CATHY A. CATTERSON, CLERK

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

C.A. No. 91-35862
D.C. No. 90-00010-JAV

GORDON W. EPPERLY; ESTHER K. EPPERLY; NIELS P. EPPERLY; BOBBI J. EPPERLY,

Plaintiffs-Appellants,

v.

UNITED STATES, (U.S. Congress); IRS Employee No. 2981806539, and a number of unknown Employees of U.S.,

Defendants-Appellees

ORDER

Appeal from the United States District Court
for the District of Alaska

Before: HUG and POOLE, Circuit Judges, and PRO,* District Judge.

The panel, as constituted in the above case, has voted to deny appellants' petition for rehearing. Judge Hug and Judge Poole have voted to reject the suggestion for rehearing en banc, and Judge Pro has recommended rejection of the suggestion for rehearing en banc.

The full court has been advised of the en banc suggestion and no active judge of the court has requested a vote on whether to rehear the matter en banc.

Fed. R. App. P. 35(b).

The petition for rehearing is **DENIED** and the suggestion for rehearing en banc is **REJECTED**.

---

* The Honorable Philip M. Pro, United States District Judge for the District of Nevada, sitting by designation.

F I L E D
Nov 24 1992
CATHY A. CATTERSON, CLERK

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

* * *

C.A. No. 91-35862
D.C. No. CV-90-10-JAV

GORDON W. EPPERLY; ESTHER K. EPPERLY; NIELS P. EPPERLY; BOBBI J. EPPERLY, Plaintiffs-Appellants, v. UNITED STATES (U.S. Congress); IRS Employee No. 2981806539, and a number of unknown Employees of U.S., Defendants-Appellees	MEMORANDUM*

Appeal from the United States District Court
for the District of Alaska
James A. Van der Heydt, Senior Judge, Presiding

Submitted November 6, 1992**
Seattle, Washington

---

*This disposition is not appropriate for publication and may not be cited to by the courts of this circuit except as provided by 9th Cir. R. 36-3.

Before: HUG, and POOLE, Circuit Judges, and PRO, District Judge,***

On November 2, 1990, Appellants Gordon, Esther, Niels, and Bobbi Epperly ("Epperlys"), appearing pro se, filed an amended complaint asserting various claims including: (1) that several unidentified employees of the United States Government have "trespassed" on their real property located in Alaska by arbitrarily classifying such land as "wetlands", and that such classification constitutes a taking of property without compensation in violation of the Fifth Amendment; (2) that Appellants are entitled to a refund of all federal income taxes paid given that they are "American Inhabitants" who possess sovereign powers and immunities and

---

**The panel unanimously finds this case suitable for decision without oral argument. Fed. R. App. P. 34(a); 9th Cir. R. 34-4.

***The Honorable Philip Pro, United States District Judge for the District of Nevada, sitting by designation.

are thus "nonresident aliens" as defined by the tax code; and (3) that IRS employee number 2981806539 violated their constitutional rights under Article Four as well as the First, Fifth, Ninth, and Tenth Amendments by mailing Gordon Epperly a letter stating that he had been assessed $500 for filing a frivolous tax return./1 See E.R. p. 7-15 (Amended Complaint, p. 5-13); Appellants' Brief, p. 9-20. In their amended complaint, Appellants further request a declaration that the Fourteenth Amendment was never ratified. See E.R. p. 13 (Amended Complaint, p. 11)

On April 30, 1991, the district court

1/ In addition to damages for violating of their constitutional rights, in their amended complaint Appellants "demand" that the United States prosecute Employee Number 2981806539 for violations of 18 U.S.C. ss 1512(b) (tampering with a witness, victim, or informant), 18 U.S.C. ss 872 (extortion), 18 U.S.C. ss 912 (false personation), 18 U.S.C. ss 1017, 1018 (fraud and false statements), 18 U.S.C. ss 1341 (mail fraud), 18 U.S.C. ss 242 (civil rights). See E.R. p. 12 (Amended Complaint, p. 10). Such demands are patently frivolous and were properly dismissed by the district court.

dismissed the Epperlys' amended complaint for failure to state a claim pursuant to Fed. R. Civ. P. 12(b)(6). This Court has jurisdiction under 28 U.S.C. ss 1291 and affirms the district court.

Standard of Review

We review de novo a dismissal for failure to state a claim pursuant to Rule 12(b)(6). Tanner v. Heise, 879 F.2d 572, 576 (9th Cir. 1989). All allegations of material fact are taken as true and construed in the light most favorable to the plaintiff. Id. Dismissal is appropriate only if the district court concludes that the plaintiff can prove no set of facts to support his or her claim for relief. Id.

I. Wetlands

In dismissing the Epperlys' allegations that the United States committed a "trespass" and violated the Fifth Amendment by classifying their land as "wetlands," the district court found that since the Epperlys have not been restricted in the use of their property, such claims were premature. See E.R. p. 106 (April 30, 1991

Order, p. 4). In their opening brief, the Epperlys concede that the question of whether their Fifth Amendment rights have been violated is unripe. See Appellants' Brief, at 9. Notwithstanding this, the Epperlys assert that the question of the jurisdiction of the Clean Water Act, 33 U.S.C. ss 1251, et seq., over their property should be decided by the district court. The Epperlys are incorrect.

In the present case, the United States has taken no regulatory action against the Epperlys and the Epperlys have not demonstrated any hardship which would occur as a result of the district court's decision to decline jurisdiction. Accordingly, the district court properly dismissed the Epperlys' "wetlands" claims as premature. See American-Arab Anti-Discrimination Committee v. Thornburgh, 970 F.2d 501, 510-12 (9th Cir. 1991); Lotz Realty Co. v. United States, 757 F. Supp. 692, 695-97 (E.D.Va. 1990).

II. Taxpayer Status

The Epperlys next argue that since they are "American Inhabitants" who possess sovereign powers and immunities, they are properly classified under the tax code as "nonresident aliens" and are not subject to taxation by the federal government. Such an argument is frivolous. See United States v. Cheek, 882 F.2d 1263, 1269, n. 2 (7th Cir. 1989), vacated on other grounds 498 U. S. 192 (1991) (rejecting argument that a person is not a federal taxpayer because he or she is an absolute, free-born, natural individual).

The Epperlys do not dispute that they were either born in California or Alaska, and that they are all presently domiciled in Alaska. See Appellants' Brief, p. 14-17; Appellants' Reply, p. 2. Based on these facts, the district court properly found that the Epperlys were not "nonresident aliens" and thus subject to federal income tax. See 26 U.S.C. ss 7701(b)(1)(B).

III. IRS Employee Number 298106539

The Epperlys further seek damages for violation of their rights as secured by Article Four of the United States Constitution as well as the First, Fifth, Ninth, and Tenth Amendments based on IRS Employee Number 2981806539 sending Gordon Epperly a letter stating that he had been assessed $500 for filing a frivolous tax return. Such an assertion is meritless.

No constitutional violation has ever been recognized for ministerial actions taken in the course of the collection of taxes. See Wage v. I.R.S., 915 F.2d 1230, 1235 (9th Cir. 1990), cert. denied, 111 S. Ct. 986 (1991). Moreover, the mailing of the notice was objectively reasonable thus protecting the IRS employee from suit based on qualified immunity. Id.; Fry v. Melaragno, 939 F.2d 832, 838-39 (9th Cir. 1991). The district court correctly denied the Epperlys' claims against IRS Employee Number 2981806539.

IV. Fourteenth Amendment

The Epperlys also seek declaratory relief to the effect that the Fourteenth Amendment was never ratified. See E.R. p. 13 (Amended Complaint, p. 11). Such relief involves the evaluation of a political question which cannot be addressed by the courts. United States v. Stahl, 792 F.2d 1438, 1440-41 (9th Cir. 1986), cert. denied, 479 U.S. 1036 (7th Cir. 1986), cert. denied, 479 U.S. 883 (1986); Kantor v. Wellesley Galleries, Ltd., 704 F.2d 1088, 1090 (9th Cir. 1983). Accordingly, the Epperlys' request for declaratory judgment was properly dismissed by the district court.

V. Sanctions

The United States requests sanctions in the amount of $2,500 against the Epperlys for bringing this appeal. Because the Epperlys' arguments on appeal are entirely without merit, we grant the United States' request and impose sanctions in the sum of $2,500. See Fed. R. App. P. 38; 28 U.S.C. ss 1912; and Wilcox v.

Commissioner, 848 F.2d 1007, 1009 (9th Cir. 1988).

AFFIRMED.

/////

/////

/////

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

FILED
APR 30 1991
UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA
BY _____Deputy

GORDON W. EPPERLY, ESTER K, EPPERLY, NIELS P. EPPERLY, and BOBBI J. EPPERLY,

Plaintiffs,

vs.

DISTRICT OF ALASKA UNITED STATES (US CONGRESS), STATE OF ALASKA, and CITY AND BOROUGH OF JUNEAU,

Defendants.

J90-010 CIVIL

MEMORANDUM AND ORDER

I. INTRODUCTION

THIS CAUSE comes before the court on a motion to dismiss complaint, filed December 10, 1990 (Docket No. 20), by defendant, United States; on motion for summary judgment, filed November 29, 1990 (Docket No. 17), by plaintiffs, Gordon, Esther, Niels and Bobbi Epperly; and on

motion to supplement pleading, filed March 11, 1991 (Docket No. 23), by plaintiffs. For the reasons stated below, the court grants defendant's motion to dismiss and plaintiffs' motion to supplement and denies plaintiffs' motion for summary judgment.

II. BACKGROUND

By Order, filed October 14, 1990 (Docket No. 13), this court allowed plaintiffs to file an amended complaint which was not frivolous and which complied with this court's rules. Plaintiffs filed an amended complaint November 2, 1990 (Docket No. 14) *1. Plaintiffs' amended complaint asserts three claims: (1) plaintiffs claim that a piece of their property, located in Juneau, Alaska, which has been classified as

---

*1 Plaintiffs dropped all claims against the State of Alaska and the City and Borough of Juneau in their amended complaint but added a defendant identified as IRS Employee No. 2981806539 and unknown employees of the United States.

"Wetlands" is outside the jurisdiction of the United States, and further that such classification amounts to trespass; (2) plaintiffs claim that the Internal Revenue Code does not apply to them as they are not United States citizens within the meaning of the fourteenth amendment as that amendment was never ratified; and (3) that an IRS Employee No. 2981806539 letter dated October 20, 1990, demanding payment for penalties constitutes an obstruction of the proceedings of this court and obstruction of proceedings under various section of 18 U.S.C. *2. DISCUSSION.

A. Motion to Dismiss

Defendant seeks dismissal of

---

*2 Plaintiffs claim violations of: 18 U.S.C. ss 872, Extortion by Officers or Employees of the United States; 18 U.S.C. ss 912, Falsely Assuming or Pretending to be an Officer of the United States; 18 U.S.C. ss 1017, Government Seals Wrongfully Used; 18 U.S.C. ss 1018, Official Certificate or Writing Known to Contain a False Statement; 18 U.S.C. ss 1717, Letters or Writings as Nonmailable; and 18 U.S.C. ss 242, Deprivation of Rights Under Color of Law.

plaintiffs' complaint on the grounds that the complaint is frivolous, it fails to state a claim upon which relief can be granted and for improper service. The court finds that plaintiffs' complaint fails to state a claim upon which relief can be granted and also is frivolous.

In considering whether to dismiss a claim under Fed. R. Civ. P. 12(b)(6), the court must view the complaint's allegations in the light most favorable to the plaintiff. Scheuer v. Rhodes, 416 U.S. 232, 236, 94 S.Ct. 1683, 1686 (1974). All well-pleaded facts and allegations in the plaintiff's complaint must be taken as true. Ed Miniat, Inc. v. Globe Life Ins. Group. Inc., 805 F.2d 732, 733 (7th Cir. 1986). "The complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." Conley v. Gibsen, 355 U.S. 41, 46, 78 S.Ct. 99, 102 (1957).

Plaintiffs' argument that classification of certain property as wetlands constitutes

confiscation is premature and the argument that such property is outside the jurisdiction of the United States is frivolous. Plaintiffs refer to a statement in the Juneau Wetlands Management Plan that the location of each wetland has been determined by the Army Corp of Engineers (COE). From this statement plaintiffs claim in their complaint that their own property has been classified as wetlands by the COE. Even if that were true, plaintiffs still fail to state a claim upon which relief can be granted.

In Avovelles Sportsmen's League, Inc. v. Marsh, 715 F.2d 897 (5th Cir. 1983), the defendants claimed that classification of certain property as a wetland subject to the COE's regulations constituted a taking for which just compensation must be paid under the fifth amendment. The court of appeals rejected that argument as premature. Defendants in that case had not applied for a permit and thus there had been no determination as to what use the defendants could or could not put the land in question.

In the present case, plaintiffs do not claim restriction on use of their property pursuant to a specific denial of a permit by the COE. Plaintiffs assume a taking that may never take place. The Supreme Court, in United States v. Riverside Bayview Homes, Inc., 474 U.S. 121, 128, 106 S.Ct. 455, 459 stated: "A requirement that a person obtain a permit before engaging in a certain use of his or her property does not in itself "take" the property in any sense: after all, the very existence of a permit system implies that permission may be granted, leaving the landowner free to use the property as desired. Moreover, even if the permit is denied, there may be other viable uses available to the owner. Only when a permit is denied and the effect of the denial is to prevent "economically viable" use of the land in question can it be said that taking has occurred." Since there has been no determination whether the plaintiffs may put their property to the uses they desire, plaintiffs' claim is premature. Plaintiffs' wetland claim, therefore, fails to

state a claim upon which relief can be granted.

Plaintiffs' fourteenth amendment argument has been rejected in other similar tax protestor cases. United States v. Studley, 783 F.2d 934, 937 (9th Cir. 1986) (rejecting the argument that taxpayer was an absolute, free-born and natural individual, and therefore not subject to the tax laws); U.S. v. Cheek, 882 F.2d 1263, 1269 (7th Cir. 1989) (rejecting argument as absurd that taxpayer is not a "fourteenth amendment citizen," but rather a white male Christian with inherent and inalienable rights). This court also rejects plaintiffs' argument.

Further, the question of whether the fourteenth amendment has been properly ratified is a political question. Coleman v. Miller, 307 U.S. 433, 450 (1939). Political questions are those federal constitutional issues which courts do not address but leave to the legislative and executive branch of the federal government for resolution. Baker v. Carr, 369 U.S. 186, 217 (1962). Plaintiffs' fourteenth amendment claim,

therefore, fails to state a claim upon which relief can be granted.

Plaintiffs' third claim against an IRS employee also fails to state a claim upon which relief can be granted. Plaintiffs received from the IRS a notice of penalty charge. There was no signature on the notice. In the upper right hand corner of the document was a series of numerals. Plaintiff has ascribed that series of numerals to suggest it identifies a particular IRS employee and thus plaintiffs seek relief against a numbered IRS employee. Plaintiffs provide no set of facts, and the court, drawing all inferences in a light most favorable to plaintiffs, can infer no reasonable set of facts which could state a claim for relief against an IRS employee for sending a notice of penalty charge. There is nothing in plaintiffs' complaint which suggests that an IRS employee obstructed these proceedings when a notice of penalty charge was sent to plaintiffs. Nor is there any indication that an IRS Employee engaged in conduct specified in the various sections of

18 U.S.C. cited by plaintiffs.

Further, printed on the notice of penalty charge is a statement that if plaintiffs wish to contest the assessment, a claim must be filed on Form 843, and, if that claim is denied, a suit may be brought in the United States District Court. Plaintiffs have provided no proof that Form 843 was filed and denied. Plaintiffs have not sought an administrative remedy prior to proceeding in district court. Therefore, this claim is dismissed for failure to exhaust administrative remedies.

B. Plaintiffs' Summary Judgment Motion.

Because the court finds that plaintiffs' complaint is subject to dismissal pursuant to Fed. R. Civ. P. 12(b)(6), the court does not reach the merits of plaintiffs' motion for summary judgment. The motion therefore is denied.

Plaintiffs filed, March 11, 1991 (Docket No. 23), a motion to supplement their pleading. The court grants plaintiffs' motion to submit the supplemental pleading. The court

regarded the supplement as additional briefing to plaintiffs' opposition to defendant's motion to dismiss. In making its determination on the motion to dismiss, the court took into consideration plaintiffs' supplemental pleading.

IV. ORDER

Accordingly, IT IS ORDERED:

(1) THAT defendant's motion to dismiss is GRANTED;

(2) THAT plaintiffs' motion for summary judgment is DENIED; and

(3) THAT plaintiffs' motion to supplement is GRANTED.

DATED at Anchorage, Alaska, this 7th day of April, 1991.

/s/ James D. Von Der Heydt
United States District Judge

* * * * * *

II

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

* * * * * *

The following emphasized parts of the Constitutional and Statutory provisions are parts that are involved in the Appellants' Appeal from the U.S. Court of Appeals, Ninth Circuit.

* * * * * *

- A -

United States Constitution

* * * * * *

Article I
(Clause 8)

Section 1. The Congress shall have power to lay and collect taxes, duties, imposts and excises, TO PAY THE DEBTS and provide for the

common defense and general welfare of the United sTates; but all duties, imposts and excises shall be uniform throughout the United States.

Section 18. [Congress] To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, AND ALL OTHER POWERS VESTED BY THIS CONSTITUTION in the government of the United States, or any department or officer thereof.

Article IV
(Clause 3)

Section 2. The Congress shall have power to dispose of and make all needful rules and regulations RESPECTING THE TERRITORY OR OTHER PROPERTY belonging to the United States; and nothing in this Constitution shall be construed as to prejudice any claims of the United States, or of any particular state.

Article IV
(Clause 4)

Section 1. The United States SHALL GUARANTEE TO EVERY STATE IN THIS UNION A REPUBLICAN FORM OF GOVERNMENT, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.,

Article V

The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two-thirds of the several states, shall be valid to all intents and purposes, as part of this Constitution, WHEN RATIFICATIONS IN THREE-FOURTHS THEREOF, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any

manner affect the first and fourth clauses in the ninth section of the first article; AND THAT NO STATE, WITHOUT ITS CONSENT, SHALL BE DEPRIVED OF ITS EQUAL SUFFRAGE IN THE SENATE.

Article VI
(Clause 1)

SECTION 2. This Constitution, and the laws of the United States WHICH SHALL BE MADE IN PURSUANCE THEREOF; and all treaties made, or which shall be made, under the authority of the United States, SHALL BE THE SUPREME LAW OF THE LAND; and the judges in every state shall be bound thereby, any thing in the Constitution or las of any state to the contrary notwithstanding.

SECTION 3. The Senators and Representatives before mentioned, and the members of the several state legislatures, AND ALL executive and JUDICIAL OFFICERS, both of the UNITED STATES and of the several states, SHALL BE BOUND BY OATH OR AFFIRMATION, TO SUPPORT THIS CONSTITUTION; but no religious test shall ever be required as a

qualification to any office or PUBLIC TRUST under the United States.

Article of Amendment I

CONGRESS SHALL MAKE NO LAW RESPECTING AN ESTABLISHMENT OF RELIGION, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right to the people peaceably to assemble, and to petition the government for a redress of grievances.

Article of Amendment V

No person shall be shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; NOR SHALL ANY PERSON be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, NOR BE DEPRIVED of life or

PROPERTY, WITHOUT DUE PROCESS OF LAW; NOR SHALL PRIVATE PROPERTY BE TAKEN FOR PUBLIC USE WITHOUT JUST COMPENSATION.

Article of Amendment IX

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

Article of Amendment X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

Amendment XIII

SECTION 1. Neither slavery or INVOLUNTARY SERVITUDE, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SECTION 2. Congress shall have power to enforce this article by appropriate legislation.

Amendment XIV

SECTION 1. ALL PERSONS BORN OR NATURALIZED IN THE UNITED STATES AND SUBJECT TO THE JURISDICTION THEREOF, ARE CITIZENS OF THE UNITED STATES and the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SECTION 2. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States,

Representatives in Congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any ot the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall bear to the whole number of male citizens twenty-one years of age in such state.

SECTION 3. No person shall be a Senator or Representative in Congress, or elector or President and Vice President, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each house, remove such disability.

SECTION 4. THE VALIDITY OF THE PUBLIC DEBT OF THE UNITED STATES, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, SHALL BE QUESTIONED. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid or insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

SECTION 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Amendment XV

SECTION 1. THE RIGHT OF CITIZEN OF THE UNITED STATES TO VOTE shall not be denied or abridged by the United States or by any state ON ACCOUNT OF RACE, COLOR, OR PREVIOUS CONDITION OF SERVITUDE.

SECTION 2. The Congress shall have power to enforce this article by appropriate legislation.

/////

/////

/////

* * * * * *

- B -

Acts and Resolutions of Congress

* * * * * *

FIFTEENTH CONGRESS.
Sess. I. Ch. 80.
(1818)

Chap. LXXX. - *An Act to provide for the publication of the laws of the United States, and for other purposes.*

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That, at and during the session of each Congress of the United States, the Secretary for the Department of State, shall cause the acts and resolutions passed by Congress at such session, to be published, currently as they are enacted, and as soon as practicable, in not more than one newspaper in the District of Columbia, and in not more than three newspapers in each of the several states, and in not more

than three newspapers in each of the territories of the United States. And he shall also cause to be published, in the like manner, in the said newspapers, or in such of them as he shall for that purpose designate, the public treaties entered into and ratified by the United States.

Sec. 2. *And be it further enacted*, That, whenever official notice shall have been received, at the Department of State, that any amendment which heretofore has been, or hereafter may be, proposed to the constitution of the United States, HAS BEEN ADOPTED, ACCORDING TO THE PROVISIONS OF THE CONSTITUTION, it shall be the duty of the said Secretary of State forthwith to cause the said amendment to be published in the said newspapers authorized to promulgate the laws, with his certificate, specifying the states by which the same may have been adopted, and that the same has become valid, to all intents and purposes, as a part of the constitution of the United States.

Sec. 3. *And be it further enacted*, That the proprietor of every newspaper in which the laws,

resolutions, treaties, or amendments, shall be so published, shall receive, as full compensation therefor, at the rate of one dollar for each printed page of the laws, resolutions, and treaties, as published in the pamphlet form in the manner hereinafter directed. And if it shall appear, on the examination of any account, that there has been any unreasonable delay or intentional omission in the publication of the laws aforesaid, the proper accounting officer of the treasury is hereby authorized and required to deduct, from such account, such sum as shall be charged therein for the publication of any laws which shall have been so unreasonably delayed or intentionally omitted. And in any such case it shall be the duty of the Secretary of State to discontinue the publication of the laws in the newspaper belonging to such proprietor, and such newspaper shall, in no event, be again authorized, nor shall the proprietor thereof be again employed, to publish the laws of the United States.

Sec. 4. *And be it further enacted*, That the Secretary of State shall cause to be published, at the close of every session of Congress at large, including all resolutions passed by Congress, amendments to the constitution adopted, and all public treaties made and ratified since the then last publication of the laws; which copies shall be printed on paper, and in the size of the sheet and type, in a manner to correspond with the late revised edition of the laws, published by Bioren and Co., which copies shall be distributed in the following manner: To every person who has been President of the United States, one copy to each, during their respective lives; to the present and every future President and Vice President, one copy to each, during their lives; one copy to the actual President and Vice President, to be deemed an appurtenant to their offices respectively; to each member of the Senate and House of Representatives, and to each delegate in Congress from any territory, one copy each; twenty copies to the secretary of the Senate, and fifty copies to the clerk of the

House of Representatives, for the general use of the committees and members of the respective Houses; to the judges and clerks of the supreme and district courts, and to the marshal and attorney of each district or section of a district, one copy each; to the Secretaries of State, of the Treasury, of War, and of the Navy, and to each of their chief clerks one copy each; one copy to the attorney general, to each of the comptrollers and auditors, and to the register and treasurer of the United States, and to the commissioner of the revenue, and the commissioner of the general land office, and to the paymaster general, and the adjutant and inspector general, and to the commissary general of supplies, and the director of the mint; one copy to each collector, naval officer, surveyor, and inspector of the customs; to the governors, judges, secretaries, and clerks of the territories of the United States, one copy to each; to the postmaster general, and each assistant, one copy; and one copy to each of the surveyors general of the lands of the United States, and to each

register of a land office; and one copy to each publisher of a newspaper authorized to promulgate the same. The delivery of the said copies shall be under the direction of the Secretary of State, or such officer as he shall, for that purpose, authorize.

Sec. 5. *And be it further enacted*, That three hundred of the said copies shall be annually placed in the library of Congress; and every member of Congress, and every delegate shall be entitled to the use of a copy during the session, and the same shall be returned and accounted for, as may be prescribed by the rules of the library. And one hundred of the said copies, authorized by this act to be printed, shall be delivered to the Secretary of War, and fifty copies to the Secretary of the army and navy as the public service may require. Four hundred copies shall be reserved by the Secretary of State, to be distributed by him, at his discretion, among the public and foreign ministers and consuls and other public agents.

Sec. 6. *And be it further enacted*, That the residue of the said number of copies, authorized to be printed, shall be distributed among the several states and territories, in proportion to the number of representatives and delegates to which each state and territory may be entitled in Congress, at the time of such distribution.

Sec. 7. *And be it further enacted*, That whenever the Secretary of State shall enter into any contract, with any person for the publication of the laws, in the pamphlet form, as aforesaid, he shall require at least two good and sufficient sureties for the faithful performance of the contract; and, in every such agreement, it shall always be stipulated that the number of copies hereby authorized to be printed, shall be delivered at the office of the Secretary of State within thirty days after the adjournment of each session of Congress, and that, for every day's delay in such delivery, the person so contracting shall forfeit the sum of one hundred dollars, to be deducted from the compensation to which he otherwise would have been entitled.

Sec. 8. *And be it further enacted*, That all acts or parts of acts, heretofore passed, which in any manner contravene the provisions of this act, or which may be inconsistent with the same; and all acts or parts of acts, in which are contained any provisions for the publication of the laws, either in a pamphlet form or in newspapers, be, and the same are hereby repealed; *Provided*, That such repeal shall not be construed to prevent the payment of any compensation that may be due, for the publication of the laws, previous to the promulgation of this act.

Sec. 9. *And be it further enacted*, That whatever sum of money may be necessary to carry into effect this act, besides any specific appropriations, for the same objects, that have been, or may be, made, shall be paid out of any money in the treasury not otherwise appropriated.

Approved, April 20, 1818.

* * * * * *

THIRTY-NINTH CONGRESS, SESS. II, Ch. 152
[March 2, 1867] via override of Presidential Veto

[Preamble] Whereas no legal State governments or adequate protection for life or property now exists in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas; and whereas it is necessary that peace and good order should be enforced in said States until loyal and republican State governments can be legally established: Therefore,

[Sec. 1] *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, THAT SAID REBEL STATES SHALL BE DIVIDED INTO MILITARY DISTRICTS AND MADE SUBJECT TO THE MILITARY AUTHORITY OF THE UNITED STATES as hereinafter prescribed, and for that purpose Virginia shall constitute the first district; North Carolina and South Carolina the second district; Georgia, Alabama, and Florida

the third district; Mississippi and Arkansas the fourth district; and Louisiana and Texas the fifth district.

Sec. 2 *And be it further enacted*, That it shall be the duty of the President to assign to the command of each of said districts an officer of the army, not below the rank of brigadier - general, and to detail a sufficient military force to enable such officer to perform his duties and enforce his authority within the district to which he is assigned.

Sec. 3 *And be it further enacted*, That it shall be the duty of each officer assigned as aforesaid, to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish, or cause to be punished, all disturbers of the public peace and criminals; and to this end he may allow local civil tribunals to take jurisdiction of and to try offenders, or, when in his judgment it may be necessary for the trial of offenders, he shall have power to organize military commissions or tribunals for that purpose, and all interference

under color of State authority with the exercise of military authority under this act, shall be null and void.

Sec. 4 *And be it further enacted*, That all persons put under military arrest by virtue of this act shall be tried without unnecessary delay, and no cruel or unusual punishment shall be inflicted, and no sentence of any military commission or tribunal hereby authorized, affecting the life or liberty of any person, shall be executed until it is approved by the officer in command of the district, and the laws and regulations for the government of the army shall not be affected by this act, except in so far as they conflict with its provisions: *Provided*, That no sentence of death under the provisions of this act shall be carried into effect without the approval of the President.

Sec. 5 *And be it further enacted*, THAT WHEN THE PEOPLE OF ANY ONE OF SAID REBEL STATES SHALL HAVE FORMED A CONSTITUTION OF GOVERNMENT in conformity with the Constitution of the United States in all respects, framed by a convention of

delegates ELECTED BY THE MALE CITIZENS OF SAID STATE, twenty-one years old and upward, OF WHATEVER RACE, COLOR, OR PREVIOUS CONDITION, who have been resident in said State for one year previous to the day of such election, except such as may be disfranchised for participation in the rebellion or for felony at common law, AND WHEN SUCH CONSTITUTION SHALL PROVIDE THAT THE ELECTIVE FRANCHISE SHALL BE ENJOYED BY ALL SUCH PERSONS AS HAVE THE QUALIFICATIONS HEREIN STATED FOR ELECTORS OF DELEGATES, and when such constitution shall be ratified by a majority of the persons voting on the question of ratification who are qualified as electors for delegates, and when such constitution shall have been submitted to Congress for examination and approved, and Congress shall have approved the same, AND WHEN SAID STATE, BY A VOTE OF ITS LEGISLATURE ELECTED UNDER SAID CONSTITUTION, SHALL HAVE ADOPTED THE AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES, PROPOSED BY THE THIRTY-NINTH CONGRESS, AND KNOWN AS ARTICLE FOURTEEN, AND WHEN SAID ARTICLE SHALL HAVE BECOME A PART OF THE

CONSTITUTION OF THE UNITED STATES, SAID STATE SHALL BE DECLARED ENTITLED TO REPRESENTATION IN CONGRESS, and senators and representatives shall be admitted therefrom on their taking the oath prescribed by law, and then and thereafter the preceding sections of this act shall be inoperative in said State: *PROVIDED*, THAT NO PERSON EXCLUDED FROM THE PRIVILEGE OF HOLDING OFFICE BY SAID PROPOSED AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES, SHALL BE ELIGIBLE TO ELECTION AS A MEMBER OF THE CONVENTION TO FRAME A CONSTITUTION FOR ANY OF SAID REBEL STATES, NOR SHALL ANY SUCH PERSON VOTE FOR MEMBERS OF SUCH CONVENTION.

Sec. 6 *And be it further enacted*, That, until the people of said rebel States shall be by law admitted to representation in the Congress of the United States, ANY CIVIL GOVERNMENTS WHICH MAY EXIST THEREIN SHALL BE DEEMED *PROVISIONAL ONLY*, and in all respects *SUBJECT TO THE PARAMOUNT AUTHORITY OF THE UNITED STATES* TO ABOLISH, MODIFY, CONTROL, OR SUPERSEDE THE SAME; and in all elections to any office under such

provisional governments all persons shall be entitled to vote, and none others, who are entitled to vote, under the provisions of the fifth section of this act; and no person shall be eligible to any office under any such provisional governments who would be disqualified from holding office under the provisions of the third *article* of said constitutional amendment.

/////

/////

/////

* * * * * *

FORTIETH CONGRESS. Sess. I, Ch. XXX
[July 19, 1867] via override of Presidential Veto

CHAP. XXX - *An Act supplementary to an Act entitled "An Act to provide for the more efficient Government of the Rebel States," passed on the second day of March, eighteen hundred and sixty-seven, and the Act supplementary thereto, passed on the twenty-third day of March, eighteen hundred and sixty-seven.*

[Sec. 1] *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That it is hereby declared to have been the true intent and meaning of the act of the second day of March, one thousand eight hundred and sixty-seven, entitled "An act to provide for the more efficient government of the rebel States," and of the act supplementary thereto, passed on the twenty - third day of March, in the year one thousand eight hundred and sixty-seven, THAT THE

GOVERNMENTS THEN EXISTING in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas WERE NOT LEGAL STATE GOVERNMENTS; and THAT THEREAFTER SAID GOVERNMENTS, IF CONTINUED, WERE TO BE CONTINUED SUBJECT IN ALL RESPECTS TO THE MILITARY COMMANDERS OF THE RESPECTIVE DISTRICTS, AND TO THE PARAMOUNT AUTHORITY OF CONGRESS.

Sec. 2 *And be it further enacted*, THAT THE COMMANDER OF ANY DISTRICT NAMED IN SAID ACT SHALL HAVE POWER, subject to the disapproval of the General of the army of the United States, and to have effect till disapproved, whenever in the opinion of such commander the proper administration of said act shall require it, TO SUSPEND OR REMOVE FROM OFFICE, OR FROM THE PERFORMANCE OF OFFICIAL DUTIES AND THE EXERCISE OF OFFICIAL POWERS, ANY OFFICER OR PERSON HOLDING OR EXERCISING, OR PROFESSING TO HOLD OR EXERCISE, ANY CIVIL OR MILITARY OFFICE OR DUTY IN SUCH DISTRICT UNDER ANY POWER, ELECTION, APPOINTMENT OR AUTHORITY DERIVED FROM, OR GRANTED BY, OR

CLAIMED UNDER, ANY SO-CALLED STATE OR THE GOVERNMENT THEREOF, OR ANY MUNICIPAL OR OTHER DIVISION THEREOF, and upon such suspension or removal such commander, subject to the disapproval of the General as aforesaid, shall have power to provided from time to time for the performance of the said duties of such officer or person so suspended or removed, by the detail of some competent officer or soldier of the army, or by the appointment of some other person, to perform the same, and to fill vacancies occasioned by death, resignation, or otherwise.

Sec. 3. *And be it further enacted*, That the General of the army of the United States shall be invested with all the powers of suspension, removal, appointment, and detail granted in the preceding section to district commanders.

Sec. 4 *And be it further enacted*, That the acts of the officers of the army already done in removing in said districts persons exercising the functions of civil officers, and appointing others in their stead, are hereby confirmed: *Provided*, That any person heretofore or hereafter

appointed by any district commander to exercise the functions of any civil office, may be removed either by the military officer in command of the district, or by the General of the army. AND IT SHALL BE THE DUTY OF SUCH COMMANDER TO REMOVE FROM OFFICE AS AFORESAID ALL PERSONS who are disloyal to the government of the United States, or WHO USE THEIR OFFICIAL INFLUENCE IN ANY MANNER TO HINDER, DELAY, PREVENT, OR OBSTRUCT THE DUE AND PROPER ADMINISTRATION OF THIS ACT AND THE ACTS TO WHICH IT-IS SUPPLEMENTARY.

Sec. 5 *And be it further enacted*, That the boards of registration provided for in the act entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,' passed March two, eighteen hundred and sixty-seven, and to facilitate restoration," passed March twenty-three, eighteen hundred and sixty-seven, shall have power, and it shall be their duty before allowing the registration of any person, to ascertain, upon such acts or information as they can obtain, whether such person is entitled to be

registered under said act, and the oath required by said act shall not be conclusive on such question, and no person shall be registered unless such board shall decide that he is entitled thereto; and such board shall also have power to examine, under oath, (to be administered by any member of such board,) any one touching the qualification of any person claiming registration; but in every case of refusal by the board to register an applicant, and in every case of striking his name from the list as hereinafter provided, the board shall make a note or memorandum, which shall be returned with the registration list to the commanding general of the district, setting forth the grounds of such refusal or such striking from the list: *Provided*, That no person shall be disqualified as member of any board of registration by reason of race or color.

Sec. 6. *And be it further enacted*, That the true intent and meaning of the oath prescribed in said supplementary act is, (among other things,) that no person who has been a member of

the legislature of any State or who has held any executive or judicial office in any State, whether he has taken an oath to support the Constitution of the United States or not, and whether he was holding such office at the commencement of the rebellion, or had held it before, and who has afterwards engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof, is entitled to be registered or to vote; and the words "executive or judicial office in any State" in said oath mentioned shall be construed to include all civil offices created by law for the administration of any general law of a State, or for the administration of justice.

Sec. 7 *And be it further enacted*, That the time for completing the original registration provided for in said act may, in the discretion of the commander of any district be extended to the first day of October, eighteen hundred and sixty-seven; and the boards of registration shall have power, and it shall be their duty, commencing fourteen days prior to any election

under said act, and upon reasonable public notice of the time and place thereof, to revise, for a period of five days, the registration lists, and upon being satisfied that any person not entitled thereto has been registered, to strike the name of such person from the list, and such person shall not be allowed to vote. And such board shall also, during the same period, add to such registry the names of all persons who at that time possess the qualifications required by said act who have not been already registered; and no person shall, at any time, be entitled to be registered or to vote by reason of any executive pardon or amnesty for any act or thing which, without such pardon or amnesty, would disqualify him from registration or voting.

Sec. 8. *And be it further enacted*, That all members of said boards of registration and all persons hereafter elected or appointed to office in said military districts, under any so- called State or municipal authority, or by detail or appointment of the district commanders, shall be required to take and to subscribe the oath of

office prescribed by law for officers of the United States.

Sec. 10. *And be it further enacted*, THAT NO DISTRICT COMMANDER or member of the board of registration, OR ANY OF THE OFFICERS OR APPOINTEES ACTING UNDER THEM, SHALL BE BOUND IN HIS ACTION BY ANY OPINION OF ANY CIVIL OFFICER OF THE UNITED STATES.

Sec. 11. *And be it further enacted*, That all the provisions of this act and of the acts to which this is supplementary shall be construed liberally, to the end that all the intents thereof may be fully and perfectly carried out.

/////

/////

/////

* * * * * *

U.S. CONGRESSIONAL
JOINT RESOLUTION OF JULY 21, 1868
(Senate Journal - page 709)
(House Journal - page 1126)

"Whereas the legislatures of the States of Connecticut, Tennessee, New Jersey, Oregon, Vermont, West Virginia, Kansas, Missouri, Indiana, Ohio, Illinois, Minnesota, New York, Wisconsin, Pennsylvania, Rhode Island, Michigan, Nevada, New Hampshire, Massachusetts, Nebraska, Maine, Iowa, Arkansas, Florida, North Carolina, Alabama, South Carolina, and Louisiana, being three-fourths and more of the several States of the Union, have ratified the fourteenth article of amendment to the Constitution of the United States duly proposed by two-thirds of each house of the thirty-ninth Congress: Therefore,

Resolved by the Senate, (the House of Representatives concurring,) That said fourteenth article is hereby declared to be a part of the Constitution of the United States, AND IT SHALL

BE DULY PROMULGATED AS SUCH BY THE SECRETARY OF STATE."

//////

//////

//////

* * * * * *

JOINT RESOLUTION TO SUSPEND THE GOLD STANDARD AND ABROGATE THE GOLD CLAUSE, JUNE 5, 1933 (31 USC 463)

H.J. Res. 192, 73rd Cong., 1st Sess.

Joint resolution to assure uniform value to the coins and currencies of the United States.

Whereas the holding of or dealing in gold affect the public interest, and are therefore subject to proper regulation and restriction; and

Whereas the existing emergency has disclosed that provisions of obligations which purport to give the obligee a right to require payment in gold or a particular kind of coin or currency of the United States, or in an amount in money of the United States measured thereby, obstruct the power of the Congress to regulate the value of the money of the United States, and are inconsistent with the declared policy of the Congress to maintain at all time the equal power of every dollar, coined or issued by the United

States, in the markets and in the payment of debts. Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) every provision contained in or made with respect to any obligation which purported TO GIVE THE OBLIGEE A RIGHT TO REQUIRE PAYMENT in gold or a particular kind of coin or currency, or in an amount in money of the United States measured thereby, IS DECLARED TO BE AGAINST PUBLIC POLICY; and no such provision shall be contained in or made with respect to any obligation hereafter incurred. EVERY OBLIGATION, hereafter or <u>hereafter incurred</u>, whether or not any such provision is contained therein or made with respect thereto, SHALL BE DISCHARGED upon payment, dollar for dollar, in any coin or currency which at the time of payment is LEGAL TENDER FOR PUBLIC AND PRIVATE DEBTS. Any such provision contained in any law authorizing obligations to be issued by or under authority of the United States, is hereby repealed, but the repeal of any such provision

shall not invalidate any other provision or authority contained in such law.

(b) As used in this resolution, the term "obligation" means an obligation (including every obligation of and to the United States, excepting currency) payable in money of the United States; and the term "coin or currency" means coin or currency of the United States, including Federal Reserve notes and circulating notes of Federal Reserve banks and national banking associations.

SEC. 2. The last sentence of paragraph (1) of subsection (b) of section 43 of the Act entitled "An Act to relieve the existing national economic emergency by increasing agricultural purchasing power, to raise revenue for extraordinary expenses incurred by reason of such emergency, to provide emergency relief with respect to agricultural indebtedness, to provide for the orderly liquidation of joint-stock land banks, and for other purposes", approved May 12, 1933, is amended to read as follows:

"All coins and currencies of the United States (including Federal Reserve notes and circulating

notes of Federal Reserve banks and national banking associations) heretofore or hereafter coined or issued, shall be legal tender for all debts, public and private, public charges, taxes, duties, and dues, except that gold coins, when below the standard weight and limit of tolerance provided by law for the single piece, shall be legal tender only at valuation in proportion to their actual weight."

/////

/////

/////

* * * * * *

NATIONAL EMERGENCIES ACT
(P.L. 94-412, 90 Stat. 1255)

AN ACT

To terminate certain authorities with respect to national emergencies still in effect, and to provide for orderly implementation and termination of future national emergencies.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Emergencies Act".

TITLE I - TERMINATING EXISTING DECLARED EMERGENCIES

Sec. 101. (a) All powers and authorities possessed by the President, any other officer or employee of the Federal Government, or any executive agency, as defined in section 105 of title 5, United States Code, as a result of the existence of any declaration of national emergency in effect on the date of enactment of

this Act are terminated two years from the date of such enactment. Such termination shall not affect -

(1) any action taken or proceeding pending not finally concluded or determined on such date;

(2) any action or proceeding based on any act committed prior to such date; or

(3) any rights or duties that matured or penalties that were incurred prior to such date.

(b) For the purpose of this section, the words "any national emergency in effect" means a general declaration of emergency made by the President.

TITLE II - DECLARATION OF FUTURE NATIONAL EMERGENCIES

Sec. 201. (a) With respect to Acts of Congress authorizing the exercise, during the period of a national emergency, of any special or extraordinary power, the President is authorized to declare such national emergency. Such proclamation shall immediately be transmitted to the Congress and published in the Federal Register.

(b) Any provisions of law conferring powers and authorities to be exercised during a national emergency shall be effective and remain in effect (1) only when the President (in accordance with subsection (a) of this section), specifically declares a national emergency, and (2) only in accordance with this Act. No law enacted after the date of enactment of this Act shall supersede this title unless it does so in specific terms, referring to this title, and declaring that the new law supersedes the provisions of this title.

Sec. 202. (a) Any national emergency declared by the President in accordance with this title shall terminate if -

(1) Congress terminates the emergency by concurrent resolution; or

(2) the President issues a proclamation terminating the emergency.

Any national emergency declared by the President shall be terminated on the date specified in any concurrent resolution referred to in clause (1) or on the date specified in a proclamation by the President terminating the emergency as provided in clause (2) of this subsection, whichever date is earlier, and any powers or authorities exercised by reason of said emergency shall cease to be exercised after such specified date, except that termination shall not affect -

(A) any action taken or proceeding pending not finally concluded or determined on such date;

(B) any action or proceeding based on any act committed prior to such date; or

(C) any rights or duties that matured or penalties that were incurred prior to such date.

(b) Not later than six months after a national emergency is declared, and not later than the end of each six-month period thereafter that such emergency continues, each House of Congress shall meet to consider a vote on a concurrent resolution to determine whether that emergency shall be terminated.

(c)(1) A concurrent resolution to terminate a national emergency declared by the president shall be referred to the appropriate committee of the House of Representatives or the Senate, as the case may be. One such concurrent resolution shall be reported out by such committee together with its recommendations within fifteen calendar days after the day on which such resolution is referred to such committee, unless such House shall otherwise determine by the yeas and nays.

(2) Any concurrent resolution so reported shall become the pending business of the house in question (in the case of the Senate the time for

debate shall be equally divided between the proponents and the opponents) and shall be voted on within three calendar days after the day on which such resolution is reported, unless such House shall otherwise determine by yeas and nays.

(3) Such a concurrent resolution passed by one House shall be referred to the appropriate committee of the other House and shall be reported out by such committee together with its recommendations within fifteen calendar days after the day on which such resolution is referred to such committee and shall thereupon become the pending business of such House and shall be voted upon within three calendar days after the day on which such resolution is reported, unless such House shall otherwise determine by yeas and nays.

(4) In the case of any disagreement between the two Houses of Congress with respect to a concurrent resolution passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such concurrent resolution

within six calendar days after the day on which managers on the part of the Senate and the House have been appointed. Notwithstanding any rule in either House concerning the printing of conference reports or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than six calendar days after the conference report is filed in the House in which such report is filed first. In the event the conferees are unable to agree within forty-eight hours, they shall report back to their respective Houses in disagreement.

(5) Paragraphs (1) - (4) of this subsection, subsection (b) of this section, and section 502(b) of this Act are enacted by Congress -

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the :House in the case of resolutions

described by this subsection; and they supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(d) Any national emergency declared by the President in accordance with this title, and not otherwise previously terminated, shall terminate on the anniversary of the declaration of that emergency if, within the ninety-day period prior to each anniversary date, the President does not publish in the Federal Register and transmit to the Congress a notice stating that such emergency is to continue in effect after such anniversary.

TITLE III - EXERCISE OF EMERGENCY POWERS AND AUTHORITIES

Sec. 301. When the President declares a national emergency, no powers or authorities made

available by statute for use in the event of an emergency shall be exercised unless and until the President specifies the provisions of law under which he proposes that he, or other officers will act. Such specification may be made either in the declaration of a national emergency, or by one or more contemporaneous or subsequent Executive orders published in the Federal Register and transmitted to the Congress.

TITLE IV - ACCOUNTABILITY AND REPORTING REQUIREMENTS OF THE PRESIDENT

Sec. 401. (a) When the President declares a national emergency, or Congress declares war, the President shall be responsible for maintaining a file and index of all significant orders of the President, including Executive orders and proclamations, and each Executive agency shall maintain a file and index of all rules and regulations, issued during such emergency or war issued pursuant to such declarations.

(b) All such significant orders of the President, including Executive orders, and such

rules and regulations shall be transmitted to the Congress promptly under means to assure confidentiality where appropriate.

(c) When the President declares a national emergency or Congress declares war, the President shall transmit to Congress, within ninety days after the end of each six-month period after such declaration, a report on the total expenditures incurred by the United States Government during such six-month period which are directly attributable to the exercise of powers and authorities conferred by such declaration. Not later than ninety days after the termination of each such emergency or war, the President shall transmit a final report on all such expenditures.

TITLE V - REPEAL AND CONTINUATION OF CERTAIN EMERGENCY POWER AND OTHER STATUTES

Sec. 501. (a) Section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)) is amended -

(1) at the end of paragraph (9), by striking out "; or" and inserting in lieu thereof a period; and

(2) by striking out paragraph (10).

(b) Section 2667(b) of title 10 of the United States Code is amended -

(1) by inserting "and" at the end of paragraph (3);

(2) by striking out paragraph (4); and

(3) by redesignating paragraph (5) as (4).

(c) The joint resolution entitled "joint resolution to authorize the temporary continuation of regulation of consumer credit", approved August 8, 1947 (12 U.S.C. 249), is repealed.

(d) Section 5(m) of the Tennessee Valley Authority Act of 1933 as amended (16 U.S.C. 249), is repealed.

(e) Section 1383 of title 18, United States Code, is repealed.

(f) Section 6 of the Act entitled "An Act to amend the Public Health Service Act in regard to certain matters of personnel and administration,

and for other purposes", approved February 28, 1948, is amended by striking out subsections (b), (c), (d), (e), and (f) (42 U.S.C. 211b).

(g) Section 9 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1742) is repealed.

(h) This section shall not affect -

(1) any action taken or proceeding pending not finally concluded or determined at the time of repeal;

(2) any action or proceeding based on any act committed prior to repeal; or

(3) any rights or duties that matured or penalties that were incurred prior to repeal.

Sec. 502. (a) The provisions of this Act shall not apply to the following provisions of law, the powers and authorities conferred thereby, and actions taken thereunder:

(1) Section 5(b) of the Act of October 6, 1917, as amended (12 U.S.C. 95a; 50 U.S.C. App. 5(b));

(2) Act of April 28, 1942 (40 U.S.C. 278b);

(3) Act of June 30, 1949 (41 U.S.C. 252);

(4) Section 3477 of the Revised Statutes, as amended (31 U.S.C. 203);

(5) Section 3737 of the Revised Statutes, as amended (41 U.S.C. 15);

(6) Public Law 85-804 (Act of Aug. 28, 1958, 72 Stat. 972; 50 U.S.C. 1431-1435);

(7) Section 2304(a)(1) of title 10, United States Code;

(8) Sections 3313, 6386(c), and 8313 of title 10, United States Code.

(b) Each committee of the house of Representatives and the Senate having jurisdiction with respect to any provision of law referred to in subsection (a) of this section shall make a complete study and investigation concerning that provision of law and make a report, including any recommendations and proposed revisions such committee may have, to its respective House of Congress within two hundred and seventy days after the date of enactment of this Act.

Approved September 14, 1976

* * * * * *

III

PROCLAMATIONS INVOLVED

* * * * * *

PROCLAMATION OF RATIFICATION
14th Amendment [July 20, 1868]
(15 Stat. 706)

WILLIAM H. SEWARD

SECRETARY OF STATE OF THE UNITED STATES

[Preamble] Whereas the Congress of the United States, on or about the sixteenth of June, in the year one thousand eight hundred and sixty-six, passed a resolution which is in the words and figures following, to wit: -

"JOINT RESOLUTION PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES.

"*Be it resolved by the Senate and House of Representatives of the United*

States of America in Congress assembled, (two thirds of both Houses concurring), That the following article be proposed to the legislatures of the several States as an amendment to the Constitution of the United States, which when ratified by three fourths of said legislatures, shall be valid as part of the Constitution. namely:

"ARTICLE XIV.

"Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its

jurisdiction the equal protection of the laws.

"Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding INdians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, in denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the

whole number of male citizens twenty-one years of age in such State.

"Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a members of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House, remove such disability.

"Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and

bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

"Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

"SCHUYLER COLFAX,
"Speaker of the House of Representatives.

"LA FAYETTE S. FOSTER,
"President of the Senate pro tempore.

And whereas by the second section of the act of Congress, approved the twentieth of April, one thousand eight hundred and eighteen, entitled "An act to

provide for the publication of the laws of the United states, and for other purposes," it is made the duty of the Secretary of State forthwith to cause any amendment to the Constitution of the United States, WHICH HAS BEEN ADOPTED ACCORDING TO THE PROVISIONS OF THE SAID CONSTITUTION, to be published in the newspapers authorized to promulgate the laws, with his certificate specifying the States by which the same may have been adopted, and that the same has become valid, to all intents and purposes, as a part of the Constitution of the United States;

AND WHEREAS NEITHER THE ACT JUST QUOTED FROM, NOR ANY OTHER LAW, EXPRESSLY OR BY CONCLUSIVE IMPLICATION, AUTHORIZES THE SECRETARY OF STATE TO DETERMINE AND DECIDE DOUBTFUL QUESTIONS AS TO THE AUTHENTICITY OF THE ORGANIZATION OF STATE LEGISLATURES, OR AS TO THE POWER OF ANY STATE LEGISLATURE TO RECALL A PREVIOUS

ACT OR RESOLUTION OF RATIFICATION OF ANY AMENDMENT PROPOSED TO THE CONSTITUTION;

And whereas it appears from official documents on file in this Department that the amendment to the Constitution of the United States, proposed as aforesaid, has been ratified by the legislatures of the States of Connecticut, New Hampshire, Tennessee, New Jersey, Oregon, Vermont, New York, Ohio, Illinois, West Virginia, Kansas, Maine, Nevada, Missouri, Indiana, Minnesota, Rhode Island, Wisconsin, Pennsylvania, Michigan, Massachusetts, Nebraska, and Iowa;

And whereas it further appears from documents on file in this Department that the amendment to the Constitution of he United States, proposed as aforesaid, HAS ALSO BEEN RATIFIED BY NEWLY CONSTITUTED AND NEWLY ESTABLISHED BODIES AVOWING THEMSELVES TO BE AND ACTING AS THE LEGISLATURES, RESPECTIVELY, OF THE STATES

OF ARKANSAS, FLORIDA, NORTH CAROLINA, LOUISIANA, SOUTH CAROLINA, AND ALABAMA;

And whereas, it further appears from official documents on file in this Department that the legislatures of two of the Sates first above enumerated, to wit, OHIO AND NEW JERSEY, HAVE SINCE PASSED RESOLUTIONS RESPECTIVELY WITHDRAWING THE CONSENT OF EACH OF SAID STATES TO THE AFORESAID AMENDMENT; and whereas it is deemed a matter of doubt and uncertainty whether such resolutions are not irregular, invalid, and therefore ineffectual for withdrawing the consent of the said two States, or of either of them, to the aforesaid amendment;

And whereas the whole number of States in the United States is thirty- seven, to wit: New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Vermont, Kentucky, Tennessee,

Ohio, Louisiana, Indiana, Mississippi, Illinois, Alabama, Maine, Missouri, Arkansas, Michigan, Florida, Texas, Iowa, Wisconsin, Minnesota, California, Oregon, Kansas, West Virginia, Nevada, and Nebraska;

And whereas the twenty-three States first hereinbefore named, whose legislatures have ratified the said proposed amendment, AND THE SIX STATES NEXT THEREAFTER NAMED, AS HAVING RATIFIED THE SAID PROPOSED AMENDMENT BY NEWLY CONSTITUTED AND ESTABLISHED LEGISLATIVE BODIES, together constitute three fourths of the whole number of States in the United States:

Now, therefore, be it known that I, William H. Seward, Secretary of State of the United states, by virtue and in pursuance of the second section of the act of Congress, approved the twentieth of April, eighteen hundred and eighteen, hereinbefore cited, DO HEREBY CERTIFY

THAT IF THE RESOLUTIONS OF THE LEGISLATURES OF OHIO AND NEW JERSEY RATIFYING THE AFORESAID AMENDMENT ARE TO BE DEEMED AS REMAINING OF FULL FORCE AND EFFECT, NOTWITHSTANDING THE SUBSEQUENT RESOLUTIONS OF THE LEGISLATURES OF THOSE STATES, WHICH PURPORT TO WITHDRAW THE CONSENT OF SAID STATES FROM SUCH RATIFICATION, then the aforesaid amendment has been ratified in the manner hereinbefore mentioned, and so has become valid, to all intents and purposes, as a part of the Constitution of the United States.

In testimony whereof, I have hereunto set my hand, and caused the seal of the Department of State to be affixed.

Done at the city of Washington, this twentieth day of July, in the year of or Lord one thousand eight hundred and sixty-eight, and of the Independence of

the United States of America the ninety-third.

William H. Seward, Secretary of State.

/////

/////

/////

* * * * * *

PROCLAMATION OF RATIFICATION
14th Amendment [July 28, 1868]
(15 Stat. 708)

WILLIAM H. SEWARD,

SECRETARY OF STATE OF THE UNITED STATES

Whereas by an act of Congress passed on the twentieth of April, one thousand eight hundred and eighteen, entitled, "An act to provide for the publication of the laws of the United States and for other purposes," it is declared that whenever official notice have been received at the Department of State that any amendment which heretofore has been and hereafter may be proposed to the Constitution of the United States HAS BEEN ADOPTED TO THE PROVISIONS OF THE CONSTITUTION, it shall be the duty of the said Secretary of State forthwith to cause the said amendment to be published in the newspapers authorized to promulgate the

laws, with his certificate, specifying the States by which the same may have been adopted, and that the same has become valid to all intents and purposes as a part of the Constitution of the United States.

And whereas the Congress of the United States, on or about the sixteenth day of June, one thousand eight hundred and sixty-six, submitted to the legislatures of the several States a proposed amendment to the Constitution in the following words, to wit:

"JOINT RESOLUTION PROPOSING AN AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES.

"*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, (two thirds of both Houses concurring), That the following article be proposed to the legislatures of the several States as an amendment to the Constitution of the

United States, which when ratified by three fourths of said legislatures, shall be valid as part of the Constitution. namely:

"ARTICLE XIV.

"Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

"Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in

each State, excluding INdians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, in denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

"Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any

State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a members of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House, remove such disability.

"Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss

or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

"Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

"SCHUYLER COLFAX,
"Speaker of the House of Representatives.

"LA FAYETTE S. FOSTER,
"President of the Senate pro tempore.

AND WHEREAS THE SENATE AND HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES, ON THE TWENTY-FIRST DAY OF JULY, ONE THOUSAND EIGHT HUNDRED AND SIXTY-EIGHT, ADOPTED AND TRANSMITTED TO THE DEPARTMENT OF STATE A CONCURRENT RESOLUTION, WHICH CONCURRENT RESOLUTION IS IN THE WORDS AND FIGURES FOLLOWING, TO WIT:

"IN SENATE OF THE UNITED STATES,

"July 21, 1868.

"Whereas the legislatures of the States of Connecticut, Tennessee, New Jersey, Oregon, Vermont, West Virginia, Kansas, Missouri, Indiana, Ohio, Illinois, Minnesota, New York, Wisconsin, Pennsylvania, Rhode Island, Michigan, Nevada, New Hampshire, Massachusetts, Nebraska, Maine, Iowa, Arkansas, Florida, North Carolina, Alabama, South Carolina, and Louisiana, being three fourths and more of the several States of the Union, have ratified the fourteenth article of amendment to the Constitution of the United States, duly proposed by two thirds of each House of the Thirty-ninth Congress; therefore,

"*Resolved by the Senate (the House of Representative concurring,)* THAT SAID FOURTEENTH ARTICLE IS HEREBY DECLARED TO BE A PART OF THE CONSTITUTION OF THE

UNITED STATES, AND IT SHALL BE DULY PROMULGATED AS SUCH BY THE SECRETARY OF STATE.

"Attest: Geo. C. Gorham, Secretary

July 21, 1868.

"*Resolved*, That the House of Representatives concur in the foregoing concurrent resolution of the Senate 'declaring the ratification of the fourteenth article of amendment of the Constitution of the United States."

"Attest: Edwd. McPherson, Clerk."

And whereas official notice has been received at the Department of State that the legislatures of the several States next hereinafter named have, at the times respectively herein mentioned, taken the proceedings hereinafter recited upon or in relation to the ratification of the said proposed amendments, called article fourteenth, namely:

The legislature of Connecticut ratified the amendment June 30th, 1866; the legislature of New Hampshire ratified it July 7th, 1866; the legislature of Tennessee ratified it July 19th, 1866; the legislature of New Jersey ratified it September 11th, 1866, and the legislature of the same State passed a resolution in April, 1868, to withdraw its consent to it; the legislature of Oregon ratified it September 19th, 1866; the legislature of Texas rejected it November 1st, 1866; the legislature of Vermont ratified it on or previous to November 9th, 1866; the legislature of Georgia rejected it November 13th, 1866; the legislature of North Carolina rejected it December 4th, 1866, and the legislature of the same State ratified it July 4th, 1868; the legislature of South Carolina rejected it December 20th, 1866, and the legislature of the same State ratified it July 9th, 1868; the legislature of Virginia

rejected it January 9th, 1867; the legislature of Kentucky rejected it January 10th, 1867; the legislature of New York ratified it January 10th, 1867; the legislature of Ohio ratified it January, 11th, 1867, and the legislature of the same State passed a resolution in January, 1868, to withdraw its consent to it; the legislature of Illinois ratified it January 15th, 1867; the legislature of West Virginia ratified it January 16th, 1867; the legislature of Kansas ratified it January 18th, 1867; the legislature of Maine ratified it January 19th, 1867; the legislature of Nevada ratified it January 22d, 1867; the legislature of Missouri ratified it on or previous to January 26th, 1867; the legislature of Indiana ratified it January 29th, 1867; the legislature of Minnesota ratified it February 1st, 1867; the legislature of Rhode Island ratified it February 7th, 1867; the legislature of Delaware

rejected it February 7th, 1867; the legislature of Wisconsin ratified it February 13th, 1867; the legislature of Pennsylvania ratified it February 13th, 1867; the legislature of Michigan ratified it February 15th, 1867; the legislature of Massachusetts ratified it March 20th, 1867; the legislature of Maryland rejected it March 23d, 1867; the legislature of Nebraska ratified it June 15th, 1867; the legislature of Iowa ratified it April 3d, 1868; the legislature of Arkansas ratified it April 6th, 1868; the legislature of Florida ratified it June 9th, 1868; the legislature of Louisiana ratified it July 9th, 1868; and the legislature of Alabama ratified it July 13th, 1868.

Now, therefore, be it known that I, William H. Seward, Secretary of State of the United States, in execution of the aforesaid act, AND OF THE AFORE SAID CONCURRENT RESOLUTION OF THE 21ST OF

JULY, 1868, AND IN CONFORMANCE THERETO, do hereby direct the said proposed amendment to the Constitution of the United States to be published in the newspapers authorized to promulgate the laws of the United States, AND I DO HEREBY CERTIFY THAT THE SAID PROPOSED AMENDMENT HAS BEEN ADOPTED IN THE MANNER HEREINBEFORE MENTIONED BY THE STATES SPECIFIED IN THE SAID CONCURRENT RESOLUTION, namely the States of Connecticut, New Hampshire, Tennessee, New Jersey, Oregon, Vermont, New York, Ohio, Illinois, West Virginia, Kansas, Maine, Nevada, Missouri, Indiana, Minnesota, Rhode Island, Wisconsin, Pennsylvania, Michigan, Massachusetts, Nebraska, Iowa, Arkansas, Florida, North Carolina, Louisiana, South Carolina, Alabama, and also by the legislature of the State of Georgia; the States thus specified being more than three fourths of the States of the United States.

And I do further certify that the said amendment has become valid to all intents and purposes as a part of the *Constitution of the United States*.

In testimony whereof I have hereunto set my hand and caused the seal of the Department of State to be affixed.

Done at the city of Washington this twenty-eighth day of July, in the year of our Lord one thousand eight hundred and sixty-eight, and of the Independence of the United States of America the ninety-third.

William H. Seward,

Secretary of State.